INTRODUCTION

The protection of 'Shariat' is a burning problem for Indian Muslims these days. Their religious sentiments are badly hurt as attempts are being made to put an end to the practice of 'Shariat' in their personal affairs like marriage and divorce after they had patiently tolerated persistent riots, polytheistic teachings in curriculam, economic and political backwardness and denial of government jobs. The ambiguous attitude of the government and the recent judgement of the Supreme Court (in the Shah Bano Case) have put the future of Islam (and Muslims) in jeopardy. There are some Muslims who too, willingly or unwillingly, are adding fuel to fire. It was, therefore, considered necessary to know in this regard the views of Maulana Syed Abul Hasan Ali Nadwi, President, All India Muslim Personal Law Board who is leading the movement for the Protection of "Shariat" on account of the delicate nature and seriousness of the problem.

Lucknow — Nur 'Azim Nadwi
10-10-'85

Movement For Protection of 'Shariat'

Question :

You have given interviews on your political views, literary and religious activities of Indian Muslims. These interviews are valuable documents on the problems of Indian Muslims. The future historians of Indian Muslims would find them very useful for their works. For instance, you gave an interview to 'Nida-e-Millat' on All-India Muslim Majlis-e-Mushawarat in February, 1971, and another interview on the 'Message of Humanity' in June, 1978. These interviews brought out such facts to light which were never known before. I am again giving you the trouble (of an interview) on a problem which is agitating the minds of the 'millat' for some time. I mean Muslim Personal Law. But before I ask any questions about it, I would like to know the circumstances in which you accepted the presidentship of the Board. I know your literary and other activities (which keep you busy all the time) and also your refusal to accept the presidentship of All-India Muslim Majlis-e-Mushawarat at the instance of a revered leader, the late Dr. Syed Mahmud.

Answer :

You have made a good beginning and asked the question about the Board in a nice way. It has brought back to my mind some forgotten memories. The fact is that those persons who have read my articles especially my auto-biography, know that I attach great importance to two problems of Indian Muslims and this is the result of my deep study of history of Indian Muslims and some knowledge of the purpose for which this 'ummat' has been raised and the message it has to impart to mankind :

1. The protection of 'iman' (faith) and beliefs of the future generations of Indian Muslims, perpetuation of their intrinsic and spiritual qualities, provision for their religious education, prevention from mental aberration, transmission of Islamic heritage

to them and preparing them to be the bearers and protectors of the same.

2. To maintain the Islamic identity of the 'millat' in India—a country which is a confluence of different religions, civilisation and nations; to try and keep their link with celestial teachings and divine law; here the concept of religion is not limited to prayers but embraces the whole life; it has its own Personal Law and system based on the clear injunctions of the glorious Qur'an and the traditions of Prophet Muhammad (peace be on him) and which a Muslim is duty bound to follow.

It was on account of this feeling that when the Provincial Dini T'alimi Council was formed at a meeting called by the late Qazi Adil Abbasi and the presidentship of that body fell to my lot, I accepted it as a religious obligation. I am still working in the same capacity because I consider it as an indispensable duty.

The same is the case with the All-India Muslim Personal Law Board. The Indian Muslims were faced with a challenge after independence as a result of apathetic attitude of the government and the demand of some progressive Muslims (whose number is negligible) for a Uniform Civil Code, on the pretext that national unity and uniformity cannot be had without it. The guarded and vague statements of the government added to our fears. There was a group of Muslims which started a movement* for change in Muslim Personal Law. It was yet another trial (of faith for the Muslims) and a forerunner of their cultural and social backsliding, rebellion against and a move to deprive the Muslims of the bessings of "Shariat".

> "........... whoso judgeth not by that which Allah has revealed : such are disbelievers."
>
> Surah Maida : 94

Those persons who realised this danger, Maulana Minnatullah, Amir-e-Shariat, Bihar and Orissa, was one of them. He

* Which is no more than a storm in a tea cup,

decided to establish a body to oppose this trend in an organised manner and it was decided to hold a convention on Muslim Personal Law in Bombay on 27th and 28th December, 1972. I and Maulana Manzoor N'omani had gone to Makkah Mukarramah to attend the meetings of the Muslim World League and wanted to perform Hajj, but came back early in view of the importance of this covention. The convention was attended by "Ulama" (theologians and jurists) of all schools of thought and shades of opinion, a like of which is rarely seen these days. It was decided to form the All-India Muslim Personal Law Board in this convention and Maulana Qari Muhammad Taiyib was named as the President and Maulana Minnatullah, the General Secretary.

Qari Muhammad Taiyib was a very popular person and there was unanimity on his presidentship. The question of change in presidentship of the Board was raised at the Ranchi Session on account of his health and my name was proposed. The proposers, however, withdrew the proposal when I said we do not change horses in mid-stream and it was difficult to find a more deserving president than him for a joint body like the Board. But Maulana Qari Muhammad Taiyib passed away on 17th July, 1983. It was then decided to hold a meeting of the Board at Madras on 28th and 29th December 1983. I had not attended one or two meetings on account of my illness or foreign commitments. I, therefore, decided to attend this meeting and had the seats reserved, but at the eleventh hour I was afflicted with gout of which I am an old patient. I was confined to bed and it was difficult to move out of it.

I came to know after the meeting that my name was proposed for presidentship and those members of the Board who knew my nature suggested that I would accept the office if there is unanimity over it and I was elected as such.

When I was told about the election I had no option but to accept it though it was not in conformity with my failing health, advanced age and other pre-occupations. I would have declined it without a second thought if I were asked to accept any office in any political or other organisation. But on one side I had

in mind the importance of the Personal Law which I consider like the jugular vein in human body. Secondly I have great regard for Maulana Minnatullah as he is the son of the (late) Maulana Muhammad Ali, founder of Nadwat-ul-Ulama. I never thought that after my accepting the office of presidentship the Indian Muslims would be confronted with such exacting problems which the Board (and the Community itself) had never faced before. They would call for extra-ordinary qualities of leadership, firmness of purpose, order and discipline among the public, intelligence and knowledge of the 'ulama' and lawyers alike, absolute reliance on leadership, patience and forbearance, allocation of various jobs to others with confidence and acceptance by them in good spirit. I am referring to the judgement of the Supreme Court delivered on 23rd April 1985, on payment of maintenance (nafaqa) to a divorcee (after 'iddat') which brought the entire 'millat' at the crossroad where its adherence to 'Shariat', fidelity with Islam and self-respect were put to severe test. It was the Will of Allah (and nobody knows the mysterious ways of Allah) that this delicate and decisive problem and arduous trial came to pass during my tenure of office which required utmost mental and physical strain, lot of patience and time (if the 'millat' comes off this trial with flying colours then God willing, the Personal Law would be saved from being made the target by the courts). It may probably invite the Mercy of Allah without which the most competent leaders and highly ambitious reformers cannot achieve any success:

> ".......... Victory cometh only from Allah, the Mighty, the Wise."
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> Surah Al-i-Imran : 126

Question

Would you like to throw some light on the activities of the Board for the protection of Muslim Personal Law till now ?

Answer

It must be in your knowledge that a General Body Meeting of the Board was held in Calcutta in April, 1985. The representatives of all schools of thought and of almost all the big Muslim bodies and organisations were present in this meeting like their

predecessors. The Presidential address was delivered 'extempore' (and published in Urdu and English), in which I tried to shed light on the special nature and importance of our problem in true perspective. The Valedictory Address was delivered in Shaheed Minar Park in which according to a conservative estimate about five lacs of people were present. I thought it fit to address the Muslims in particular and make a little assessment of their religious activities ; the attitude they have adopted in this regard and the indirect and moral effect it has on the 'millat'. This address has been published in Urdu.

Then there were two more meetings in Delhi - one on 16th May and the other on 10th August, 1985. It was decided in the second meeting that a delegation should meet Shri Rajiv Gandhi, the Prime Minister (We met him on 21st August 1985, in a cordial and congenial atmosphere). The delegation included heads and responsible members of all the political parties and other important organisations. We presented a memorandum to him in which all the vital information and relevant material were provided which would help him to understand the whole problem in the right perspective and suggested the easy, constitutional and legal way which would satisfy the Muslim community.

I may add that as President of the Board I initiated the talks. I told him that I am now seventy-two years old. I have seen and heard your great grand-father, Shri Motilal Nehru in Aminabad Park, Lucknow and I had occasions to see and know Shri Jawahar Lal Nehru and Smt. Indira Gandhi at close quarters. There is no movement, political or otherwise right from the time of 'Khilafat' mavement till today, which I have not seen at close range, I also know the reaction among the general public about these movements. I can say in the light of this age-old experience that I have never seen such unanimity among different schools of thought, political parties and various other Muslim Organisations as in the case of protection of Muslim Personal Law especially against the recent judgement of the Supreme Court. Shri Rajiv Gandhi heard us with attention and did not argue over anything. Then the other members of the delegation spoke including Mr. Ghulam Muhammad Banatwala, Syed Shahab-

uddin, Al-Haj Ibrahim Suleman Seth and all of them intelligently presented the case of Muslim Personal Law.

When All-India Muslim Personal Law Board decided to observe the last Friday of last Ramazan as 'Protection of Shariat Day' it was observed throughout the length and breadth of the country with dignity and without clamour and fanfare—speeches were delivered in the mosques and innumerable telegrams were sent to the Prime Minister and Law Minister. When the 'Protection of Shariat Week' was observed all sections of Muslim 'millat' without any distinction, participated in the meetings. They showed complete unanimity, unity and spirit of co-operation which was being aspired for a long time. It would not be out of place if I say that the recent Supreme Court Judgement (in Shah Bano case) has worked in such a manner in uniting all sections of the Muslim 'millat' which would otherwise be difficult to achieve albeit long and hard struggle. The 'Shariat Week' has been observed in U.P., Bihar and Orissa*. It remains to be observed in other States. These meetings were very successful on all counts at all the places. The enthusiasm and co-operation among workers and large gatherings which were seen during these meetings were not witnessed for a long time. It is estimated that between fifty thousand to a lac of people attended the meeting at Kanpur. The Moradabad meeting was also very successful.

It can be said that this problem (protection of 'Shariat') would become the cause of general awakening among the Muslim masses on account of its special nature and attachment with it. It would also build an opposition to Uniform Civil Code amongst the Muslims. The 'Millat' would realise that united it can achieve its objects (by peaceful means), save itself from great dangers and prove that it is a living community.

Question :

Besides, the brighter side of all these activities which every

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N.B. There have been such meetings in Kashmir, Punjab, Andhra Pradesh, Tamilnadu, and Karnataka which were as successful as these ones.

Muslim or patriotic citizen has realised, what apprehensions you have in this connection ; You have not only written a comprehensive history of Indian Muslims but travelled extensively in Muslim majority countries, warned the people of those countries about their weaknesses and the dangers they face (from within and without), we would, therefore, like to hear from you which is the most difficult problem which we are likely to encounter in the future ?

Answer :

You have revived some bitter memories of the past by asking this question and forced me to say something which in the ordinary course, I would not say. As Allama Iqbal has said :

"Bear my bitter-talk with patience.

Poison also at times works as anti-dote.

(Chaman mein talkh nawai meri gawara kar.

Ke Zehr bhi kabhi karta hai kar-e-tiryaqi.).

I have serious apprehensions about two weaknesses of the Muslim 'millat' (which is not merely an apprehension but it is being witnessed now), this I say with a heavy heart because it is becoming a national character: one is indecent haste and lack of patience. The problem may be quite vexatious and complicated and may require long and patient struggle, but the Muslims want it to be solved in a matter of days. They want that whatever plan or movement they start in the morning should show results before evening. The important factors in solving any problems are patience, forbearance and courage. The history not only of Muslims, but of all the 'living' and victorious nations is full of ups and downs, conquests and defeats, sorrows and pleasures, in short, a mixture of long, patient and distressful struggle. We have no better example than the life of Prophet Muhammad (peace be on him) but his life is also full of such incidencts. Tha history of all big movements also teaches us tha same lessons.

I was in Bombay in the second week of September, 1985, and

I had an opportunity to attend the Action Committee meeting of Maharashtra Muslim Personal Law Board. The meeting was going on in a sober atmosphere and different proposals were being considered for protection of 'Shariat', then all of a sudden a youngman stood up and started reading a paper. He said that the mark of living nations is that if any party fails to solve a problem, it withdraws and gives chance to others. A long time has passed and the Muslim Personal Law Board could not solve any problems, now the members should admit their failure and give an opportunity to others. This had a serious repercussion on my mind and I said that it (the attitude he represented) is a symptom of diseased mind. I asked : Have you studied the character of our fellow-countrymen ? How they waited patiently during freedom struggle and later for implementation of Development Plans. May it be Gandhiji or Malwiyaji or any other Hindu political leader or nation-builder—these leaders worked with patience and peace of mind. The nations did not call them in question after a few days of starting any movement or project. The Muslims should be more tolerant. They believe in the glorious Qur'an and in Prophet Muhammad (peace be on him). They rely on Al-mighty Allah and it should make them more broadminded and far-sighted. But it is sad that their practice is just the opposite of what it should be.

The other weakness of the Muslims which has become characteristic with them is lack of confidence in their leaders, misgivings about their capacity to deliver the goods, uncalled for and unhealthy criticism and character assassination. I repeat that the attitude of our fellow-countrymen towards their leaders and public workers is quite different. To expect noble character and unimpeachable honesty from leaders are in accord with Islamic teachings and is ideal. But to look at every leader and worker with doubt and suspicion from the very beginning, lack of confidence in and disrespact for them, to readily believe anything said about them by anybody however far-fetched and exaggerated it be, no hesitation in believing such rumours without enquiry or setting rumours afloat are such maladies which are enough to disrupt the unity of the 'millat'. This attitude can dishearten any 'lion-hearted', sincere, and pious

public worker and it is heart-rending for the most skilled leader who can steer the ship of the 'millat'. A sincere worker can bear the enemy inflicted hardships, imprisonment and hunger of the children and other dear ones without raising an eye-brow but he cannot tolerate these accusations because by these he becomes heart-broken and loses courage. Somebody has rightly said that the stories of an old woman who admonished Hazrat 'Umar and a villager, who made searching enquiries of Hazrat 'Umar have been so emphasized in our public meetings that every one has started imitating these examples though the man criticised may not be a man of the calibre of Hazrat 'Umar. The attitude of majority towards their leaders is just the opposite. In spite of certain other short-comings they are cautious, broad-minded and far-sighted.

Question :

There are some persons who have pretended ignorance and supported part of the Supreme Court Judgement saying what harm is there if alimony (nafaqa) be paid to the divorcee by her ex-husband till re-marriage or for life. If there is no such provision in 'Shariat' it matters little as it can be included now. The Personal Law is not a touch-me-not that it would fade-away and it would not be calamitous if a little amendment be made in it. It is a matter of 'ijtihad' which the imams have done in every period. They have misinterpreted the word 'mata' in the glorious Qur'an and presented it out of context for payment of 'nafaqa' after the 'waiting period' (iddat). Why not the 'ulama' specially the powerful members of the Muslim Personal Law Board which is made up of heads of great religious and educational institutions issue a 'juristic opinion' (fatwa) and declare such persons out-casts from Muslim society so that others may learn a lesson and do not have the courage to distort the 'Shariat' in future.

Answer :

You have asked a very relevant question. The other learned members of the Board are free to express their opinion, but my personal opinion is that it is not proper for 'ulama' and religious institutions to adopt the role of the 'Courts of Inquisition' of the Dark Ages which declared the heretic Christians, who did not

conform to their beliefs (according to them) as outcasts from the fold of Christianity and awarded hideous punishments on account of which a section of the public was displeased with the Church and hated Christianity.

I think we should try to imbibe religious awareness in the 'millat' which would take such progressive self-styled 'faqih' (jurists) and 'mufassir' (exegesists) to task and make them realise that they have cut themselves off from Muslim society. The attitude of the society would open their eyes (if they have any sense of honour left in them) and it would be enough for them to realise their mistaken behaviour. It would enable them to decide that it would be better to live like any other member of the Muslim society and they have to live and die in it which would stand by them in their weal and woe or to live on the respect and praise which is being lavished on them now though it is illusory and undependable.

Question :

I want your permission to ask one more question which is no less important than earlier ones. I think that it must be agitating the minds of many observant Muslims and intellectuals.

Answer :

You may ask that question also so that no aspect of the problem remains uncovered.

Question :

What in your opinion is required to be done in this very important religious and social problem and what should be our programme in the future ?

Answer :

You have asked a very pertinent question and that too at the proper time. This interview would have remained incomplete if this question was not raised here. In my opinion the first and foremost task is to invite the Muslims to stick to Islamic teachings—the 'Shariat' of which the vital and central points are rights of husband and wife towards each other and keep before them the exemplary life of Prophet Muhammad (peace be on him) and

ilve with love and sympathy which have been ordained by the glorious Qur'an.

> "......and He (Allah) ordained between you love and mercy.. ......"
>
> Surah ar-Rum : 21

The Muslim families should live in such a way that the qualities of love, kindness and mercy dominate their lives. The relationship between blood relations, distribution of property and the right to divorce should be strictly according to the 'Shariat'.

> "......be careful of your duty towards Allah in whom you claim (your rights) of one another and towards the wombs (that bare you)......"
>
> Surah an-Nisa : 1

We should live in accord with the guidance provided in the glorious Qur'an which embraces all aspects of human activity. This message should be carried out on a war footing so that it reaches every town, village and all Muslim localities. We should use all kinds of Muslim assemblies, functions and festivities as also newspapers, magazines and other media, at our disposal, for this purpose. I am of the opinion that it is the most important task before the 'millat'. It is also the only way out of the evils and miseries which have become problematic for the 'millat' for quite sometime when the promise of Allah is :

> "O ye who believe ! If you keep your duty to Allah, He will give your discrimination (between right and wrong) and will rid you of your evil thoughts and deeds and will forgive you......"
>
> Surah al-Anfal : 29

I gave an analysis in very clear terms of the causes of prevalent afflictions of the 'millat' in the Public meeting held under the auspices of All-Indian Muslim Personal Law Board at Calcutta on 7th April 1985 in which the number of audience was estimated at five lacs. I told them that they should take up self-introspection and look around themselves as to what extent they follow the laws and teachings of 'Shariat'. It is necessary that

this Valedictory Address should be published in different regional languages.*

The second impoıtant need is that the right thinking educated Muslims, scholars and intellectual should prove the superiority and excellence of Muslim Personal Law over others, and demonstrate that it is in harmony with nature and in conformity with sound wisdom as it has been sent down by Allah, the Wise, the Merciful. It should be presented in a scientific manner supported by irrefutable proofs, that it is simple and easy to follow as compared to all other Personal Laws and systems in vogue and these books should be published in Urdu, Hindi, English and other regional languages.

The Academy of Islamic Research and Publications, Lucknow, Central Personal Law Office, Monghyr and Maktaba Jama'at-e-Islami, Delhi and some other bodies have published a good many books, but it needs to be done on a wider and larger scale. The learned and devoted scholars should be asked to write books on subjects concerning 'Shariat'. There should be symposia in which expert jurists from Arab countries should be invited, and, I, as a member of the Muslim World League, take repsonsibility that they would accept the invitation and be happy to participate in them. The dialogue on this and such other problems would be helpful and some well-intentioned scholars should think over it with the seriousness it deserves.

The third important need is to explain that payment of 'maintenance' to divorcee by her ex-husband after the 'waiting period' ('iddat') is not proper according to 'Shariat' and common sense—it is not proper according to 'Shariat' because there is no scope for it in view of the injunctions of the glorious Qur'an and express dictum (of Law), it is not proper from administrative point because it would give rise to the incidence of unnatural deaths in the same way as 'bride-burning' has proliferated in recent times. I told Prime Minister, Shri Rajiv Gandhi, in a private conversation that if it is enforced by law then instead of being divorced undesirable wives would be done to death by poisoning

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* It has already been publisbed in Urdu.

or burning which is already being done in the country in case of dissatisfaction with the dowry the wife has brought.

Apart from the question of permanent law for 'maintenance' to divorcees (after 'iddat') we have to revive and practise those alternative arrangements which have been described in great detail in the 'Shariat'.

APPENDIX

ALLAH HAS GIVEN US A UNIVERSAL AND ETERNAL LAW

"This day have I perfected your religion for you and completed My favour unto you, and have chosen for you as religion al-Islam".

Surah Maida : 3

This historic revelation heralded the beginning of a new and unique chapter in the ordered and systematized life of mankind when all the laws of Islam which were in force before revelation of this verse were perfected in all respects. They included laws on marriage, divorce, inheritance and covered everything needed for methodic and organized human life. In fact, Allah set the seal of perfection on 'Shariat' with this revelation and there is no need for any alteration, addition, amendment or cancellation in it at any time.

Islam is not a religion of festivals* but the religion of the worship of Allah. Allah revealed this verse when 'Shariat' as preached and practised by last Prophet Muhammad (peace be on him) was perfected and with it the completion of the religion was also announced because all the directives, commandments and laws were clearly explained and enforced. It was achieved in 9 A. H. (632 C. E.) and nothing has been included in the 'Shariat' from that time till this date. There is, therefore, no need for anybody's help or any modification in it for the obedient servants of Allah. There is no difference in the mode of 'prayers' (salat) anywhere in the world. It means that the laws of Islam are based on sound principles and solid grounds. In the same way the principles of marriage and divorce are one throughout the Muslim world though the languages of the followers may be different, Islam is founded on unity of the 'ummat'. The inherent prosperity (barakat) and universal character of 'Shariat' would hold good and last till the Doemsday. There can be no marriage if it is not performed according to

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* There are just two festivals—Idul Fitr and Idul Azha.

'Shariat.' The great revolutions in all these fourteen hundred years could not make any change in it. The Muslims have to be alert and examine and review the prevailing conditions at frequent intervals that there is no deviation from 'Shariat'.

Those nations and communities which do not have a complete code of life make changes in the current laws with changing times and differing conditions. There are certain nations which have revealed books, but they do not act according to them. Allah has given such a law to the followers of Prophet Muhammad (peace be on him) that it embraces all aspects of human activity. There can be no change in the 'Shariat', in the same way as there can be no change in the established 'rak'ats' of 'namaz'. We cannot think of any change in 'Shariat.' The law which Allah has given us is not only universal but eternal.

The Muslims might have migrated under compulsion but they have never given up 'Shariat.' There can be no worse people than the present generation if they give up 'Shariat' which our forbears preserved at the cost of their lives.

If the Muslims remain unmindful at this critical juncture, history would change its course and it would be very difficult to undo it in hundreds of years. The people who cannot preserve their entity (national characteristics) are lost in the dark corners of history. We live in a country where different religions and laws are extant. We should, therefore, be vigilant without being aggressive in any manner.

I once told Shri Rajiv Gandhi, Prime Minister, that if the ex-husband is forced to pay alimony (nafaqa) to the divorcee after 'iddat' then the incidence of unnatural deaths would increase by burning, strangulation, drowning, etc., as in the case of dowry-deaths.

The divorce has been allowed in Islam under conditions when life of the married couple becomes unbearable (for both or any one of them). But the propaganda that is being carried out against polygamy and divorce among Muslims is not correct. If a census is taken about polygamy and divorce, it would be

found that the number of polygamous marriages and divorces is higher among non-Muslims than Muslims.

The recent interference in Muslim Personal Law has united the Muslim community as during the days of 'Khilafat' movement. Nobody has the courage to challenge or speak about change in Muslim Personal Law in a gathering of Muslims now.

If we keep quiet now the future generations would not forgive us. The Muslims have to give evidence of their self-respect. It is a trial of their 'iman' (faith). If the Muslims do not record strong enough protest now then tomorrow people would criticise our 'namaz' saying that there is apprehension of a riot because of it. I would say in the end :

Unite for the Sake of 'Shariat' and Personal Law

Tameer-e-Hayat, Lucknow.
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